

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

Honorable Fredrick E. Clement
Fresno Federal Courthouse
2500 Tulare Street, 5th Floor
Courtroom 11, Department A
Fresno, California

PRE-HEARING DISPOSITIONS

DAY: THURSDAY
DATE: JUNE 15, 2017
CALENDAR: 1:30 P.M. CHAPTER 11 AND 9 CASES

GENERAL DESIGNATIONS

Each pre-hearing disposition is prefaced by the words "Final Ruling," "Tentative Ruling" or "No Tentative Ruling." Except as indicated below, matters designated "Final Ruling" will not be called and counsel need not appear at the hearing on such matters. Matters designated "Tentative Ruling" or "No Tentative Ruling" will be called.

ORAL ARGUMENT

For matters that are called, the court may determine in its discretion whether the resolution of such matter requires oral argument. See *Morrow v. Topping*, 437 F.2d 1155, 1156-57 (9th Cir. 1971); accord LBR 9014-1(h). When the court has published a tentative ruling for a matter that is called, the court shall not accept oral argument from any attorney appearing on such matter who is unfamiliar with such tentative ruling or its grounds.

COURT'S ERRORS IN FINAL RULINGS

If a party believes that a final ruling contains an error that would, if reflected in the order or judgment, warrant a motion under Federal Rule of Civil Procedure 60(a), as incorporated by Federal Rules of Bankruptcy Procedure 9024, then the party affected by such error shall, not later than 4:00 p.m. (PST) on the day before the hearing, inform the following persons by telephone that they wish the matter either to be called or dropped from calendar, as appropriate, notwithstanding the court's ruling: (1) all other parties directly affected by the motion; and (2) Kathy Torres, Judicial Assistant to the Honorable Fredrick E. Clement, at (559) 499-5860. Absent such a timely request, a matter designated "Final Ruling" will not be called.

1. [17-10014](#)-A-11 BAKERSFIELD TEMPLE OF MOTION TO DISMISS CASE
KDG-4 THE CHURCH OF GOD IN 5-17-17 [[66](#)]
BAKERSFIELD TEMPLE OF THE
CHURCH OF GOD IN CHRIST,
HAGOP BEDOYAN/Atty. for dbt.
RESPONSIVE PLEADING

Final Ruling

This matter is continued to July 12, 2017, at 11:00 a.m.

2. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE CONTINUED STATUS CONFERENCE RE:
DISTRICT CHAPTER 9 VOLUNTARY PETITION
1-4-16 [[1](#)]
ASHLEY MCDOW/Atty. for dbt.

No tentative ruling.

3. [16-10015](#)-A-9 SOUTHERN INYO HEALTHCARE DISCLOSURE STATEMENT FILED BY
BH-18 DISTRICT DEBTOR SOUTHERN INYO HEALTHCARE
DISTRICT
4-1-17 [[268](#)]
ASHLEY MCDOW/Atty. for dbt.
RESPONSIVE PLEADING

No tentative ruling.

4. [15-12827](#)-A-11 BLUEGREENPISTA CONTINUED STATUS CONFERENCE RE:
ENTERPRISES, INC. CHAPTER 11 VOLUNTARY PETITION
7-18-15 [[1](#)]
TODD TUROCI/Atty. for dbt.

Final Ruling

At the suggestion of the parties, the status conference is continued to August 23, 2017, at 1:30 p.m. Not later than 14 days prior to the continued hearing, Randell Parker, Estate of Amarjeet Kaur and Joseph and Pamela Romance shall submit a further joint status report outlining (1) the status of the case, including the results of any meet and confer efforts; (2) the issues that remain for resolution; and (3) a proposed course of action for resolution of those issues.

5. [15-12827](#)-A-11 BLUEGREENPISTA MOTION BY TODD L. TUROCI TO
TTF-5 ENTERPRISES, INC. WITHDRAW AS ATTORNEY
5-3-17 [[583](#)]
TODD TUROCI/Atty. for dbt.

Final Ruling

This matter is continued to June 29, 2017, at 1:30 p.m. Not later than June 22, 2017, the movant shall augment the record to comply with LBR 2017-1(e).

6. [11-17165](#)-A-11 OAKHURST LODGE, INC., A CONTINUED STATUS CONFERENCE RE:
CALIFORNIA CORPORATION CHAPTER 11 VOLUNTARY PETITION
6-22-11 [[1](#)]
DONNA STANDARD/Atty. for dbt.

No tentative ruling.

7. [11-17165](#)-A-11 OAKHURST LODGE, INC., A CONTINUED STATUS CONFERENCE RE:
[15-1017](#) CALIFORNIA CORPORATION DMS-13AMENDED COMPLAINT
OAKHURST LODGE, INC. V. 4-6-16 [[151](#)]
FIRST-CITIZENS BANK & TRUST
DONNA STANDARD/Atty. for pl.
RESPONSIVE PLEADING

No tentative ruling.

8. [16-13271](#)-A-11 BLAIR GLADWIN AND TONETTA CONTINUED STATUS CONFERENCE RE:
SIMONE GLADWIN CHAPTER 11 VOLUNTARY PETITION
9-6-16 [[1](#)]
PETER FEAR/Atty. for dbt.

No tentative ruling.

9. [16-13271](#)-A-11 BLAIR GLADWIN AND TONETTA MOTION TO SELL FREE AND CLEAR
FW-2 SIMONE GLADWIN OF LIENS
BLAIR GLADWIN/MV 5-17-17 [[133](#)]
PETER FEAR/Atty. for dbt.

Tentative Ruling

Motion: Sell Real Property and Compensate Real Estate Broker

Notice: LBR 9014-1(f)(1); written opposition required

Disposition: Granted

Order: Prepared by moving party

Property:

—approximately 20 acres of real property located at 6753 E. Olive Avenue, Merced, CA (the "Bron Parcel")

—approximately 26 acres of real property located at 6493 E. Olive Avenue, Merced, CA (the "Home Parcel")

Buyer: 3 K Farming Co. and assignee Manraj S. Kahlon ("Buyer")

Sale Price: \$1,000,000

Sale Type: Private sale subject to overbid opportunity

Real Estate Broker: London Properties / Niki Upton

Compensation Requested: 5% commission to be shared with any cooperating buyer's broker pursuant to custom or agreement

Sale Free and Clear of Lien: Relief granted as stated below and the order prepared pursuant to the instructions below

Unopposed motions are subject to the rules of default. Fed. R. Civ. P. 55, *incorporated by* Fed. R. Bankr. P. 7055, 9014(c). Written opposition to this motion was required not less than 14 days before the hearing on this motion. LBR 9014-1(f)(1)(B). None has been filed. The default of the responding party is entered. The court considers the record, accepting well-pleaded facts as true. *TeleVideo Sys., Inc. v. Heidenthal*, 826 F.2d 915, 917-18 (9th Cir. 1987).

SECTION 363(b)

Section 363(b)(1) of Title 11 authorizes sales of property of the estate "other than in the ordinary course of business." 11 U.S.C. § 363(b)(1); *see also In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983) (requiring business justification). Liquidation of estate assets is an appropriate restructuring purpose in a Chapter 11 reorganization case. *See, e.g.*, 11 U.S.C. § 1123(a)(5) (listing a sale of all or part of property of the estate as a means for implementing a Chapter 11 plan). As a result, the court will grant the motion. The stay of the order provided by Federal Rule of Bankruptcy Procedure 6004(h) will be waived.

Section 330(a) of Title 11 authorizes "reasonable compensation for actual, necessary services" rendered by a professional person employed under § 327 and "reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a). Reasonable compensation is determined by considering all relevant factors. *See id.* § 330(a)(3). The court finds that the compensation sought is reasonable and will approve the application.

SALE FREE AND CLEAR UNDER § 363(f)

The sale will be free and clear of the Internal Revenue Service's lien on the real property described above, and such lien shall attach to the proceeds of the sale with the same priority and validity as it had before the sale. 11 U.S.C. § 363(f)(2). The IRS has consented to the sale by way of a signed stipulation. Stip. in Support of Mot. Approve Sale, ECF No. 145. The court will not approve the sale free and clear of any other lien or interest not identified in this paragraph.

The order shall state that the sale is free and clear of only the lien identified and that such lien shall attach to the proceeds of the sale with the same priority and validity as it had before the sale. The order shall also include the following statement verbatim: "If the filing fee for the motion was deferred and if such fee remains unpaid at the time the order is submitted, then the trustee or debtor in possession shall pay the fee for filing this motion to the Clerk of the Bankruptcy Court from the sale proceeds immediately after closing."